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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of decision: 28.03.2022*

\+ **W.P.(C) 5041/2022**

M/S MUCHIPARA CONSUMERS CO-OPERATIVE STORES LTD. THROUGH MANAGER ..... Petitioner

Through Ms Anjali Gupta, Adv.

Versus

ADDITIONAL COMMISSIONER OF CUSTOMS & ANR. ..... Respondents

Through Ms Anushree Narain, Adv. for R-1.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER
HON'BLE MS. JUSTICE POONAM A. BAMBA
[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J. (ORAL):-

CM No.14992/2022

1. Allowed, subject to just exceptions.

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2. Ms Anjali Gupta, who appears for the petitioner, says that she would want to withdraw the writ petition, with liberty to approach the concerned department for relief.

3. To be noted, the petitioner is aggrieved by the fact that its earnest money has been forfeited.

3.1. The earnest money deposited by the petitioner was an amount equivalent to Rs.29,19,444/-. This amount was deposited by the petitioner against an e-auction notice dated 07.02.2017, concerning seized/confiscated cigarettes.

3.2. To be noted, the impugned order of forfeiture was passed on 23.06.2017. 3.3. Admittedly, the value of the cigarettes purchased via e-auction by the petitioner, was Rs.1,16,77,777/-

4. The petitioner contended that the e-auction was carried out in contravention of the guidelines, issued by the Government of India, Ministry of Finance, Department of Revenue, Central Board of Excise and Customs (Anti-Smuggling Unit), *via* circular dated 29.03.2017.

4.1. It is also the petitioner's case that, in a similar situation, relief has been granted to another entity. For this purpose, our attention has been drawn to an order dated 31.05.2018, passed by the Assistant Commissioner of Customs (Refunds), appended on page 84 of the case file.

5. On the other hand, counsel for respondent no.1/revenue has pointed out that the e-auction was carried out, prior to the issuance of the circular dated 29.03.2017.

5.1. Furthermore, counsel for respondent no.1/revenue says that the e-auction was carried out on "As is where is basis", and that the petitioner was required to inspect the goods.

6. We may also note that the petitioner has approached the Court for relief, after a delay of approximately five years.

7. Given this position, as noticed above, Ms Gupta, seeks to withdraw the petition.

7.1. The request is not opposed by the counsel for respondent no.1.

8. The writ petition is, accordingly, dismissed as withdrawn, with liberty as prayed for. In case, the petitioner approaches the respondent no.1/revenue for relief, respondent no.1/revenue will be at liberty to pass an order as per law, *albeit*, after hearing the petitioner.

RAJIV SHAKDHER, J

POONAM A. BAMBA, J

MARCH 28, 2022/rb

Click here to check corrigendum, if any